

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CR 2002-093045

01/06/2006

THE HON. CRANE MCCLENNEN

CLERK OF THE COURT
E. Campo
Deputy

FILED: 01/18/2006

STATE OF ARIZONA

JEANNETTE GALLAGHER

v.

ALAN MARCEL SOJKA (A)

GARY J BEVILACQUA
JOSEPH A STAZZONE

VICTIM SERVICES DIV-CA-SE

STATUS CONFERENCE

1:37 p.m.

State's Attorney:	Jeanette Gallagher
Defendant's Attorney:	Joseph Stazzone
Defendant:	Present
Court Reporter:	Sally Stearman

This is the time set for Complex / Capital Case Management Conference.

Pretrial Motions are argued and ruled upon as follows:

1. Defendant's Motion in Limine Regarding State's Experts Testimony.

THE COURT FINDS that Arizona Case Law would not preclude Dr. Fishchione's testimony.

IT IS ORDERED denying that portion of the Motion in Limine.

To the extent that the Defendant is asking this Court to preclude testimony from these Doctors regarding who caused the injuries,

IT IS ORDERED granting the Motion in part.

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THE COURT FINDS that Arizona Case Law would not preclude the expert testimony of Dr. Green and Dr. Coffman.

IT IS ORDERED denying that portion of the Motion in Limine.

Court and counsel discuss the scope of testimony of Dr. Brandenburg and Dr. DiMaio.

THE COURT FINDS that although an expert witness is not permitted to tell the jurors how to decide the case, an expert witness is able to give an opinion even though it embraces an ultimate issue.

The Court will allow the experts to give their expert opinions to what they've seen, what they know causes something, what results they've seen, and what they know causes those results.

The Court will allow the State to cross-examine Dr. Brandenburg and Dr. DiMaio as long the answers are within their areas of expertise.

2. Defendant's Motion in Limine Regarding Dr. Plunkett.

The Court can not make a determination if this is a specific act showing a character for untruthfulness under Rule 608 (b) until a hearing can be held outside the presence of the jurors with Dr. Plunkett present. Therefore, the Court reserves its ruling on the Motion in Limine Regarding Dr. Plunkett.

3. Defendant's Motion To Sever Counts 1, 2, and 8 from Counts 3 through 7.

Based on the case law as set forth on the record,

THE COURT FINDS that the cases are properly joined under ARS 13.3 (a) 2.

IT IS THEREFORE ORDERED denying the Defendant's Motion To Sever Counts 1, 2, and 8 from Counts 3 through 7.

4. Defendant's Motion in Limine Regarding Defendant's Alleged Prior Acts.

IT IS ORDERED that the Court will not allow impeachment with Possession of Drug Paraphernalia.

Regarding the prior conviction for Aggravated Assault, the Court will allow the fact of the prior in, but not the nature of the prior.

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IT IS ORDERED that if the Defendant testifies, the State may impeach him with the fact of the prior conviction, the cause number, the date of the conviction, and the fact that the Defendant was represented by counsel.

Court and counsel discuss the rumor about kittens.

The Court reserves its ruling on the rumor about kittens until the mitigation phase.

5. Defendant's Objection to the Death Penalty.

The Court has reviewed the issues. The Arizona Supreme Court having rejected all the issues,

IT IS ORDERED denying the Motion.

6. Defendant's Motion To Dismiss the 13-703 (f) 6 Aggravating Factor.

The Court has reviewed the issues. The Arizona Supreme Court having rejected all the issues,

IT IS ORDERED denying the Defendant's Motion To Dismiss the 13-703 (f) 6 Aggravating Factor.

7. Defendant's Motion To Dismiss the State's Notice of Intent To Seek the Death Penalty and Notice of Aggravating Factors.

Based on the State's Response,

IT IS ORDERED denying the Defendant's Motion To Dismiss the State's Notice of Intent To Seek the Death Penalty and Notice of Aggravating Factors.

Defense counsel presents argument as set forth on the record.

8. Defendant's Motion in Limine To Preclude the State from Asking Questions or Making Argument Related to Any Aggravator Not Alleged or Part of This Trial.

Court will reserve ruling until if and when aggravating phase of trial is held.

9. Defendant's Motion in Limine Regarding Victim Impact Evidence.

Court will reserve ruling until if and when aggravating phase of trial is held.

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10. Defendant's Motion in Limine Regarding the Vocabulary to be used in the Trial.

Respective counsel present arguments.

IT IS ORDERED denying the Motion for reasons set forth on the record.

11. Defendant's Motion in Limine for Videotaping the Jury Selection Process.

IT IS ORDERED denying the Motion.

12. Defendant's Request that the Court Inform the Jurors of Their Rights.

IT IS ORDERED denying the Motion for reasons set forth on the record.

13. Defendant's Objection to the Jurors Asking Questions.

IT IS ORDERED denying the Motion for reasons set forth on the record.

14. Defendant's Motion for the Videotaping of the Jury Selection Process.

IT IS ORDERED denying the Motion for reasons set forth on the record.

15. Defendant's Request for Court Orders Regarding the Jury Selection Process and for Individual Voir Dire of Prospective Jurors.

Court and counsel discuss the jury selection process as set forth on the record.

The Court will address the issue further at the next Case Management Conference.

16. Defendant's Submission of Juror Questionnaire.

The Court will address the issue further at the next Case Management Conference.

IT IS ORDERED setting the next Complex / Capital Case Management Conference on 01/12/2006 at 10:00 a.m. in this division.

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IT IS FURTHER ORDERED affirming the Trial set for 01/17/2006 at 9:30 a.m. in this division.

LAST DAY REMAINS: 03/02/2006.

IT IS ORDERED affirming prior custody orders.

3:14 p.m. Matter concludes.